

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	08-00321-03-CR-W-GAF
DEONDRE CORDELL HIGGINS,)	
)	
Defendant.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on September 8, 2010. Defendant Higgins appeared in person and with appointed counsel Alex McCauley. The United States of America appeared by Assistant United States Attorney Bruce Rhoades.

I. BACKGROUND

On November 20, 2008, an indictment was returned charging Defendant with: one count of conspiracy to distribute cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) and 846; one count of possession with the intent to distribute cocaine base, in violation of 21 U.S.C. §§ 841(a)(1), (b)(1)(A) and 18 U.S.C. § 2; and one count of distribution of cocaine base, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Rhoades announced that he will be the trial counsel for the government. The case agent

to be seated at counsel table is Detective Jason Decker, Kansas City, Missouri Police Department.

Mr. McCauley announced that he will be the trial counsel for Defendant Higgins.

III. OUTSTANDING MOTIONS

The following motions are pending in this case:

- Defendant's First Motion in Limine (Doc. No. 129), filed 06/24/10;
- Defendant's Second Motion in Limine (Doc. No. 130), filed 06/24/10;
- Defendant's Motion in Limine Regarding Hearsay Testimony (Doc. No. 172), filed 09/07/10.

IV. TRIAL WITNESSES

Mr. Rhoades announced that the government intends to call 10 witnesses without stipulations.

Mr. McCauley announced that Defendant Higgins does not intend to call any witnesses during the trial. Defendant may testify.

V. TRIAL EXHIBITS

Mr. Rhoades announced that the government will offer approximately 40 exhibits in evidence during the trial.

Mr. McCauley announced that Defendant Higgins will not offer any exhibits in evidence during the trial.

VI. DEFENSES

Mr. McCauley announced that Defendant Higgins will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. McCauley stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are not likely.

IX. TRIAL TIME

Counsel were in agreement that this case will take 2 days to try if the case is bench tried or 3 days for a jury trial.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed April 6, 2009, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by September 8, 2010;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, September 15, 2010;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions¹ by or before noon, Wednesday, September 15, 2010. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

No additional motions in limine are anticipated. There are no unusual questions of law.

XII. TRIAL SETTING

The government requests the second week of the docket, to which Defendant does not object.

¹Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the trial letter, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn_shawver@mow.uscourts.gov and rhonda_enss@mow.uscourts.gov by September 17, 2010. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. The instructions shall be listed in the order they are to be given.

All counsel and Defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on September 27, 2010. The parties have agreed to a bench trial. Pursuant to Federal Rule of Criminal Procedure 23(a), Defendant must waive his right to a jury trial in writing. If the case is tried without a jury, the Court “must state its specific findings of fact in open court or in a written decision or opinion” if requested by either party before the finding of guilty or not guilty. F. R. Cr. P. 23(c).

Defendant is wheelchair bound.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
September 8, 2010

cc: Mr. Kevin Lyon